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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/479,810	06/07/1995	JOHANNES G. BEDNORZ	YOR919870074US5	8594
877	7590	05/13/2010	EXAMINER	
IBM CORPORATION, T.J. WATSON RESEARCH CENTER P.O. BOX 218 YORKTOWN HEIGHTS, NY 10598			KOPEC, MARK T	
ART UNIT		PAPER NUMBER		
				1796
NOTIFICATION DATE			DELIVERY MODE	
05/13/2010			ELECTRONIC	

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BEFORE THE  
BOARD OF PATENT APPEALS AND INTERFERENCES

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*Ex parte* Johannes G. Bednorz and Carl A. Mueller

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Appeal 2009-003320  
Application 08/479,810  
Technology Center 1700

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Mailed: May 11, 2010

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DECISION ON PETITION

This is a decision on the “Request for Oral Hearing on Appellants’ Request for Rehearing Under 37 C.F.R. § 41.52(a)(1),” filed November 17, 2010 (“Request for Oral Hearing on Request for Rehearing”). This Request will be treated as a Petition to the Chief Administrative Patent Judge under 37 C.F.R. § 41.3(a).

FINDINGS

1. On September 17, 2009, a Decision on Appeal was entered affirming and reversing rejections of the Examiner under 35 U.S.C. § 112, ¶ 1 for lack of enablement.
2. On November 17, 2009, Appellants filed a Request for Rehearing.

3. Appellants acknowledge that “they do not have a right to an oral hearing” on a Request for Rehearing. Request for Oral Hearing on Request for Rehearing, p. 1.

4. Appellants contend that an oral hearing should be granted “due to the important nature of this appeal.” *Ibid.*

5. Suspension or waiver of an applicable rule may be granted only in an extraordinary situation when justice requires. 37 C.F.R. § 1.183.

## DISCUSSION

Notwithstanding the importance of the subject matter of this appeal, both Appellants and the Office are constrained to follow applicable rules. As tacitly recognized by Appellants (Finding 3), neither the rule applicable to requests for oral hearings, 37 C.F.R. § 41.47, nor the rule applicable to requests for rehearing, 37 C.F.R. § 41.52, include any provision relating to oral hearings in connection with requests for rehearing.

Other than a conclusory allegation concerning the alleged importance of this appeal (Finding 4), Appellants have provided no facts constituting an extraordinary situation for which justice requires waiver of the rules concerning an oral hearing on a request for rehearing.

Appeal 2009-003320  
Application 08/479,810

## DECISION

In view of the foregoing, the Request for Oral Hearing on Request for Rehearing is DENIED. Appellants' Request for Rehearing has been assigned to a panel of Administrative Patent Judges for consideration and disposition.

  
Michael R. Fleming  
Chief Administrative Patent Judge

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